(f) *Submission to witness; changes; signing.* When the testimony is fully transcribed, the deposition shall be submitted to the deponent for examination and shall be read to or by him, unless such examination and reading are waived by the deponent or by all other parties in interest. Any changes in form or substance which the deponent desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the deponent for making them. The deposition shall then be signed by the deponent, unless the parties in interest by stipulation waive the signing, or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the deponent, the officer shall sign it and state on the record the fact of the waiver, or of the illness or absence of the deponent or the fact of the refusal to sign together with the reason, if any, given therefor; the deposition may then be used as fully as though signed, unless the administrative law judge holds that the reason given for refusal to sign requires rejection of the deposition in whole or in part.

(g) *Certificates by officer.* The officer shall certify on the deposition that the deponent was duly sworn by him and that the deposition is a true record of the deponent's testimony. He shall then securely seal the deposition, together with two copies thereof, in an envelope and shall personally deliver or mail the same by certified or registered mail to the administrative law judge.

(h) *Use of depositions.* A deposition ordered and taken in accord with the provisions of this section may be used in a hearing if the administrative law judge finds that the witness is absent and his presence cannot be readily obtained, that the evidence is otherwise admissible, and that circumstances exist that make it desirable in the interest of fairness to allow the deposition to be used. If a deposition has been taken, and the party in interest on whose application it was taken refuses to offer the deposition, or any part thereof, in evidence, any other party in interest or the administrative law judge may introduce the deposition or any portion thereof on which he wishes to rely.

§ 4.222 Written interrogatories; admission of facts and documents.

At any time prior to a hearing and in sufficient time to permit answers to be filed before the hearing, a party in interest may serve upon any other party in interest written interrogatories and requests for admission of facts and documents. A copy of such interrogatories and requests shall be filed with the administrative law judge. Such interrogatories and requests for admission shall be drawn with the purpose of defining the issues in dispute between the parties and facilitating the presentation of evidence at the hearing. Answers shall be served upon the party propounding the written interrogatories or requesting the admission of facts and documents within 30 days from the date of service of such interrogatories or requests, or within such other period of time as may be agreed upon by the parties or prescribed by the administrative law judge. A copy of the answer shall be filed with the administrative law judge. Within 10 days after written interrogatories are served upon a party, that party may serve cross-interrogatories for answer by the witness to be interrogated.

[51 FR 18328, May 19, 1986]

§ 4.223 Objections to and limitations on production of documents, depositions, and interrogatories.

The administrative law judge, upon motion timely made by any party in interest, proper notice, and good cause shown, may direct that proceedings under §§ 4.220, 4.221, and 4.222 shall be conducted only under, and in accordance with, such limitation as he deems necessary and appropriate as to documents, time, place, and scope. The administrative law judge may act on his own motion only if undue delay, dilatory tactics, and unreasonable demands are made so as to delay the orderly progress of the proceeding or cause unacceptable hardship upon a party or witness.

§ 4.224 Failure to comply with orders.

In the event of the failure of a party to comply with a request for the production of a document under § 4.220; or on the failure of a party to appear for

examination under §4.221 or on the failure of a party to respond to interrogatories or requests for admissions under §4.222; or on the failure of a party to comply with an order of the administrative law judge issued under §4.223 without, in any of such events, showing an excuse or explanation satisfactory to the administrative law judge for such failure, the administrative law judge may:

(a) Decide the fact or issue relating to the material requested to be produced, or the subject matter of the probable testimony, in accordance with the claims of the other party in interest or in accordance with other evidence available to the administrative law judge; or

(b) Make such other ruling as he determines just and proper.

§4.225 Prehearing conference.

The administrative law judge may, upon his own motion or upon the request of any party in interest, call upon the parties to appear for a conference to:

(a) Simplify or clarify the issues;

(b) Obtain stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;

(c) Limit the number of expert or other witnesses in avoidance of excessively cumulative evidence;

(d) Effect possible agreement disposing of all or any of the issues in dispute; and

(e) Resolve such other matters as may simplify and shorten the hearing.

HEARINGS

§4.230 Administrative law judge; authority and duties.

The authority of the administrative law judge in all hearings in estate proceedings includes, but is not limited to authority:

(a) To administer oaths and affirmations;

(b) To issue subpoenas under the provisions of 25 U.S.C. 374 upon his own initiative or within his discretion upon the request of any party in interest, to any person whose testimony he believes to be material to a hearing. Upon the failure or refusal of any person upon whom a subpoena shall have been served to appear at a hearing or to testify, the administrative law judge may file a petition in the appropriate U.S. District Court for the issuance of an order requiring the appearance and testimony of the witness:

(c) To permit any party in interest to cross-examine any witness;

(d) To appoint a guardian ad litem to represent any minor or incompetent party in interest at hearings;

(e) To rule upon offers of proof and receive evidence;

(f) To take and cause depositions to be taken and to determine their scope; and

(g) To otherwise regulate the course of the hearing and the conduct of witnesses, parties in interest, and attorneys at law appearing therein.

[36 FR 7186, Apr. 15, 1971, as amended at 55 FR 43133, Oct. 26, 1990]

§4.231 Hearings.

(a) All testimony in Indian probate hearings shall be under oath and shall be taken in public except in those circumstances which in the opinion of the administrative law judge justify all but parties in interest to be excluded from the hearing.

(b) The proceedings of hearings shall be recorded verbatim.

(c) The record shall include a showing of the names of all parties in interest and of attorneys who attended such hearing.

[36 FR 7186, Apr. 15, 1971, as amended at 52 FR 26345, July 14, 1987]

§4.232 Evidence; form and admissibility.

(a) Parties in interest may offer at a hearing such relevant evidence as they deem appropriate under the generally accepted rules of evidence of the State in which the evidence is taken, subject to the administrative law judge's supervision as to the extent and manner of presentation of such evidence.

(b) The administrative law judge may admit letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence, the weight to be attached to evidence presented in any